

Service Date: August 22, 2000

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application of)	UTILITY DIVISION
ENERGY NORTHWEST INC. for)	
Authority to Increase Rates and Charges)	DOCKET NO. D2000.7.103
For Electric Service.)	INTERIM ORDER NO. 6259a

FINDINGS OF FACT

1. On July 17, 2000, Energy Northwest Inc. (ENI) filed with the Montana Public Service Commission (Commission) a general rate case application seeking authority to increase rates for electric service by \$719,192. Included in the application was a request for an interim increase in electric rates of \$719,192.

2. On July 27, 2000, the Montana Consumer Counsel (MCC) filed a Petition for Intervention in this Docket.

3. ENI is a Montana corporation that was formed as a wholly owned subsidiary of Flathead Electric Cooperative, Inc. (FEC) to acquire the PacifiCorp service territory located in the incorporated cities of Columbia Falls, Kalispell and Whitefish, Montana. FEC acquired the remainder of PacifiCorp's service territory in Montana. The acquisitions were completed on November 5, 1998. At the time FEC and ENI adopted PacifiCorp's rates for the acquired territory.

4. According to the transmittal letter ENI and FEC operate on a not for profit, cooperative basis. They provide electric energy at cost. Their distribution rates are set to provide margins at the lowest possible level consistent with sound business practices. ENI's Articles of Incorporation and Bylaws require that any margin must be allocated to the patrons on the basis of their usage, and over time retired, or refunded, to them. The timing and amount of the retirements depend on the utility's equity requirements. ENI has applied for and received a

ruling from the Internal Revenue Service that it qualifies as a tax-exempt entity on the basis of its method of operation.

5. ENI and FEC are treated as a consolidated utility for operational purposes. There is a single management structure, shared staff, facilities and equipment. ENI owns the distribution facilities in the three incorporated cities and has separate wholesale power contracts. ENI contracts with FEC for management, operations and maintenance and customer services.

6. ENI stated that since it began serving customers it has experienced an increase in several revenue requirement categories including: operating expenses, including depreciation and energy supply, plus an adequate operating margin to service long-term debt and to provide for the rotation of patronage capital. The annual revenue requirement deficiency, based on the test year of 1999 is \$719,192.

Rate Moratorium Provision in SB 390

7. SB 390 provided a rate moratorium to protect customers from rate increases during the transition period. Section 69-8-211(6), MCA states:

“Except as provided in subsection (7), public utilities shall implement a rate moratorium during the transition period as follows:

(a) From July 1, 1998, through June 30, 2000, public utilities may not charge rates higher than those rates in effect on July 1, 1998.

(b) From July 1, 2000, through June 30, 2002, and only for those customers subject to the provisions of . 69-8-201 (1) (b), public utilities may not increase that increment of rates normally associated with the electric supply-related costs reflected in rates in effect on July 1, 1998. Beginning July 1, 2000, public utilities may propose increases to those increments of rates normally allocated to transmission and distribution costs.”

8. There are two extraordinary events which allow for rate increases during the transition period. Section 69-8-211(7)(c), MCA states:

“subject to commission approval, an extraordinary event resulting in either:

(i) a 4 % annual revenue requirement increase from July 1, 1998 through June 30, 2000; or

(ii) an 8 % power supply-related annual revenue requirement increase from July 1, 2000, through June 30, 2002;”

9. There is a further limitation on rate increases during the transition period set forth in SB 390. Section 69-8-211(8), MCA states:

“Notwithstanding subsections (6) and (7), during the transition period, public utilities may not charge rates or collect costs that include costs reallocated to transition costs at a level higher than the public utility would reasonably expect to recover in rates had the current regulatory system remained intact.”

10. ENI claims in its application that the Company meets the “4 percent annual revenue requirement increase during July 1, 1998, through June 30, 2000” rate moratorium-extraordinary event criteria. The primary reasons for ENI’s revenue requirement increases are a combination of increases in power supply-related costs, assessed property taxes and interest rate expenses.

Discussion and Decision

Power supply expenses

11. ENI witness John Goroski testified that increases in power supply expenses since the acquisition of PacifiCorp’s service area are enough to require an increase to the Company’s revenue requirement of over four percent. Based on a preliminary review of ENI’s filing, the Commission believes there may be some flaws in the Company’s analysis of its power supply costs as they relate to the extraordinary event criteria in § 69-8-211(7)(c), MCA. ENI exhibit JMG-2 compares ENI’s power costs to the power costs incurred by PacifiCorp, the prior owner of the ENI distribution system. The Commission’s preliminary analysis indicates that since ENI purchased the distribution system the Company’s power costs have been generally stable.

12. From November 1998, when ENI acquired the PacifiCorp distribution system, through June 1999 ENI’s volume weighted average monthly power supply cost was approximately \$26.41 per MWh. From July 1999 through June 2000 ENI’s power cost was approximately \$26.64 per MWh, a difference of less than one percent. Given ENI’s current power supply and load following contracts, the Company’s total power supply costs should continue at approximately this level until September 2001. (see Testimony of John Goroski, p JMG-7) Only by comparing ENI’s actual power supply costs to PacifiCorp’s asserted allocated, embedded generation costs is a power cost increase greater than 4 percent of ENI’s revenue requirement achieved.

13. In effect, ENI appears to be suggesting that the extraordinary event resulting in the need to increase rates and revenues during the transition period is the Company’s acquisition of the PacifiCorp distribution system. However, prior to the Commission’s approval of the sale, FEC, ENI’s parent, said that it would adopt PacifiCorp’s tariffed rates and assured the

Commission and the public that there would be no rate increases during the transition period. (see Order No. 6103a, Docket No. D98.10.218) At the time of the sale ENI/FEC knew its power supply costs would be different from PacifiCorp's. ENI/FEC had negotiated a power purchase contract including an interim load following contract. ENI/FEC knew its load following costs were uncertain on a longer-term basis, but in spite of this uncertainty committed not to increase rates during the transition period.

14. These issues must be further developed in the course of this proceeding. Initially, the Commission finds irrelevant any comparison between ENI's power supply costs and PacifiCorp's power supply. The Commission does not accept, for purposes of granting an interim rate adjustment, that ENI has experienced increases in power supply costs which constitute an extraordinary event pursuant to § 69-8-211(7)(c), MCA.

15. However, the Commission finds that ENI has experienced increases in power supply expenses. While the Commission does not agree with ENI's attempt to characterize this increase as an extraordinary item, it does find that ENI has incurred increased power supply costs as a result of market conditions. The amount of the increased costs for power supply costs is \$174,251 as shown on Exhibit MCJ-5.

Property taxes

16. ENI is considered an Investor Owned Utility (IOU) for property tax purposes and its assets are considered Class 9 assets, which are assessed at 12 percent. The only county with ENI assets is Flathead County. In Exhibit MCJ-5, the amount of property tax for 1999 is shown as \$625,491. For the year 2000 the amount of property tax owed will increase to \$1,105,648. This number is derived by multiplying the 2000 Department of Revenue Assessment of \$17,800,000 by 6.21 percent. There is an increase of \$480,157 from 1999 to 2000.

17. The increase in property taxes is an expense which is subject to determination by the Montana Department of Revenue. ENI faces an increase in property tax expense of \$480,157 relating to change from 1999 to 2000. Dividing ENI's known and measurable property tax increase by the 1999 test year revenue requirement of \$12,000,703 produces a quotient of 4 percent. The Commission finds that the increase in property tax expense of \$480,157 meets the extraordinary event requirements of § 69-8-211 (7)(c) (i) which requires a 4 percent annual revenue requirement increase from July 1, 1998, through June 30, 2000.

Rate of return

18. With respect to rate of return the Commission declines to make any finding of increased cost due to rate of return. The determination of rate of return for interim purposes is related to the last rate of return established by the Commission. Given that ENI has no rate history with the Commission any attempt to set interim rates would be speculative and not based on past Commission precedent. Therefore, a rate of return adjustment is not appropriate for determining the level of interim relief.

19. The Commission finds that ENI is entitled to an interim increase in revenues of \$654,408. That number is the sum of \$480,157 and \$174,251 noted above. In the filing ENI recommended the following rate spread for the \$719,192 increase:

Residential	\$330,800
Small Commercial	\$366,862
Irrigation	\$ 2,012
Lighting	\$ 19,518

The Commission finds that the interim rates should be spread in the same proportion as ENI recommended. For the purposes of this Interim Order the Commission finds that the \$654,408 should be spread to rate classes as follows:

Residential	\$301,002
Small Commercial	\$333,815
Irrigation	\$ 1,831
Lighting	\$ 17,760

CONCLUSIONS OF LAW

1. Energy Northwest Inc. provides electric service within the State of Montana and as such is a “public utility” within the meaning of . 69-3-101, MCA.

2. The Montana Public Service Commission properly exercises jurisdiction over the Energy Northwest Inc.’s rates and operations pursuant to Title 69, Chapter 3, MCA.

3. The Commission may in its discretion, within the scope of . 69-3-304, MCA, make temporary approvals of requests pending a hearing or final decision.

4. The rate levels and spread approved in this Order are a reasonable means of providing interim relief to ENI’s customers.

ORDER

1. Energy Northwest Inc. shall implement, on an interim basis, rates designed to increase annual jurisdictional electric revenues by \$654,408.
2. Energy Northwest Inc. shall adhere to and abide by all provisions in this Interim Order. All rate schedules shall comply with all determinations as set forth in this Interim Order.
3. Energy Northwest Inc. must file tariffs in compliance with the Findings of Fact in this Interim Order.
4. Nothing in this Order precludes the Commission from adopting in its Final Order a revenue requirement different from that contained in this Interim Order.
5. Interim approval of any matters in this proceeding should not be viewed as final endorsement by the Commission of any issues, calculations, or methodologies approved in this Order.
6. If the Final Order in this Docket results in an annual revenue amount less than that found in this Interim Order, the rebate shall include interest at 6.51 percent.
7. This Interim Order is effective for service rendered on and after September 1, 2000.

DONE IN OPEN SESSION at Helena, Montana on this 22nd day of August, 2000, by a vote of 4 to 1, with Commissioner Bob Anderson dissenting.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner (Vote Dissented)

GARY FELAND, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision.
A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.